

CONSTITUTION 101

Module 6: Separation of Powers and Federalism
6.6 Info Brief

FEDERALISM

KEY TERMS

Federalism is the word used to describe the Constitution’s system of dividing political power between the national government and the states.

FEDERALISM IN THE CONSTITUTION

When we look for federalism in the Constitution, where can we find it?

The Constitution itself doesn’t say “federalism” anywhere. But it’s in there. It’s everywhere.

Examples Include:

- [Article I, Section 1](#) and [3](#) (the original Senate)
- [Article I, Section 4](#) (Elections)
- [Article I, Section 8](#) (the powers of Congress)
- [Article I, Section 9](#) (limitations on the powers of Congress)
- [Article I, Section 10](#) (limitations on the powers of the states)
- [Article III, Section 2](#) (Courts and the States)
- [Article IV](#) (Fugitive Slave/Rendition Clause)
- [Article V](#) (Amendment Process)
- [Article VI](#) (Supremacy Clause)
- [10th Amendment](#)
- [Enforcement Clauses of various amendments](#) (including the Reconstruction Amendments)

FEDERALISM AND THE FOUNDING GENERATION

Why did the Founding generation value federalism?

For the Founding generation, federalism was an important way of bringing government closer to the American people themselves—to the level of government closest to them.

By dividing the powers of the government between the national government and the states, our system gives a ton of power to the state governments.

This made perfect sense within the Founding generation’s worldview.

Many key founders—Federalist and Anti-Federalist alike—believed that state governments were the governments closest to the people.

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Furthermore, by empowering states to shape policy in important ways, federalism permits states to shape a range of policies in ways that serve our diverse nation.

This lets the people in the state that they live in—and their elected officials—write laws that fit their community best.

In many areas, this simply permits a diversity of approaches to key policy areas—based on the needs of the state and the policy preferences of its voters.

LABORATORIES OF DEMOCRACY

However, over time, these diverse approaches to different issues—from education to health to safety to the environment to whether people are treated equally to how much people are paid—sometimes benefit the nation as a whole.

In 1932, Justice Louis Brandeis offered his famous vision of the states as “laboratories of democracy.”

On this view, state governments often lead the way in trying out new laws and policies. And when those ideas work out well, they can spread to other states and even bubble up to the national level—changing the way that things work all across the nation.

So, ideas that are tested out as state laws sometimes lead to larger changes in how our country works as a whole.

- One famous example is women’s suffrage. Women began voting in Western states long before the 19th Amendment was ratified in 1920. And this experiment worked out so well that other states extended voting rights to women, as well—including (eventually) large states like New York and Michigan. Finally, this experiment culminated in the 19th Amendment—banning sex discrimination in voting.

But not all national laws bubble up from the states. The same thing can happen in the opposite direction, too. By giving the national government the power to override the states in certain areas, the Constitution permits the national government to stop the states from doing certain things. The national government can set laws that apply to the entire nation—to everyone.

- One key example is the national government’s response to Jim Crow segregation. Beginning in the late 1800s, many Southern states set up systems of laws that discriminated against African Americans. In response, the national government eventually passed new laws—like the Civil Rights Act of 1964 and the Voting Rights Act of 1965—that applied to the entire country and helped dismantle the Jim Crow system of segregation in certain states.

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BIG IDEA

What should we remember about the Founding generation's approach to federalism?

Even though the founders established a new national government, they preserved a key role for the states in our constitutional system. To that end, they set up a system of federalism—dividing power between the national government and the states. While future amendments granted the national government new powers, the states retained substantial powers to promote the health, safety, and welfare of their residents.